

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:19-cv-00614-FDW
(3:17-cr-00134-FDW-DSC-17)**

JAMES WALTER DOWDLE,)
)
Petitioner,)
)
vs.)
)
UNITED STATES OF AMERICA,) **ORDER**
)
)
Respondent.)
)

THIS MATTER is before the Court on the Government's Notice of Petition for Certiorari and Motion to Hold in Abeyance. [Doc. 10].

On November 13, 2019, Petitioner filed a Section 2255 Motion to Vacate Sentence. [Doc. 1]. This matter was stayed pending decision by the Fourth Circuit Court of Appeals in United States v. Taylor, No. 19-7616. The Fourth Circuit decided Taylor on October 14, 2020, holding that attempted Hobbs Act robbery is not a crime of violence under the force clause of 18 U.S.C. § 924(c)(3)(A). 979 F.3d 203 (4th Cir. 2020). Thereafter, the United States unsuccessfully sought rehearing en banc. Then, the Government requested that this matter be held in abeyance pending the filing of a petition for certiorari, the United States' acquiescence in a defendant-filed petition that presents the same issue, or the decision of the Acting Solicitor General not to file a petition for certiorari, whichever occurs first. [Doc. 8]. The Court granted the Government's request to stay this matter. [Doc. 9].

The Government now notifies the Court that the United States has filed a petition for writ of certiorari to the United States Supreme Court seeking review of Taylor. [Doc. 10]. The Government requests that the Court continue to hold the Petitioner's motion to vacate in abeyance

pending the Supreme Court's decision on the petition for certiorari. [Id.]. Should the Supreme Court grant the petition, the Government requests that the stay continue until the Supreme Court decides the case. On the other hand, should the Supreme Court deny the petition, the Government requests an additional 30 days in which to file a response to the Petitioner's motion to vacate. [Id.].

IT IS, THEREFORE, ORDERED that the Government's motion [Doc. 10] is **GRANTED** and this matter remains in **ABEYANCE** pending the decision of the Supreme Court either granting the petition for certiorari in Taylor, No. 19-7616, and deciding the case or denying the petition.

IT IS FURTHER ORDERED that the Government shall have seven (7) days from the occurrence of one of these two events, whichever is first, to notify the Court of such.

IT IS FURTHER ORDERED that the Government, should the Supreme Court deny the Government's petition, shall have thirty (30) days to file a response to Petitioner's motion to vacate.

Signed: April 26, 2021


Frank D. Whitney
United States District Judge